

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF VIRGINIA  
Richmond Division

In re:

LeClairRyan, PLLC,<sup>1</sup>

Debtor

Case No.

19-34574-KRH

Chapter

7

**TRUSTEE’S APPLICATION TO RETAIN AND EMPLOY  
TAVENNER & BERAN, PLC AS COUNSEL FOR THE TRUSTEE**

Lynn L. Tavenner, Trustee, and not individually but solely in her capacity as the Chapter 7 trustee (in such capacity, the “**Chapter 7 Trustee**” and/or the “**Trustee**”) of the bankruptcy estate (the “**Estate**”) of LeClairRyan PLLC (“**LeClairRyan**” and/or the “**Debtor**”), in the above-referenced Chapter 7 case (the “**Case**”) hereby submits this application (“**Application**”) pursuant to 11 U.S.C. § 327(a) and Rule 2014 of the Federal Rules of Bankruptcy Procedure for authorization to employ Tavenner & Beran, PLC (“**Tavenner & Beran**”), as counsel for the Trustee retroactive to October 4, 2019, and in support thereof states the following:

**Jurisdiction**

1. The United States Bankruptcy Court for the Eastern District of Virginia (the “**Court**”) has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Standing*

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<sup>1</sup> The principal address of the Debtor as of the petition date was 4405 Cox Road, Glen Allen, Virginia 23060, and the last four digits of the Debtor’s federal tax identification number are 2451.

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Lynn L. Tavenner, Trustee  
Tavenner & Beran, PLC  
20 North 8th Street, Second Floor  
Richmond, Virginia 23219  
Telephone: (804) 783-8300  
Telecopy: (804) 783-0178

*Lynn L. Tavenner, Chapter 7 Trustee*

*Order of Reference from the United States District Court for the Eastern District of Virginia*, dated August 15, 1984.

2. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).
3. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

### **Background**

4. On September 3, 2019 (the “**Petition Date**”), the Debtor filed for relief under Chapter 11 of Title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the “**Bankruptcy Code**”). Pursuant to §§ 1007 and 1108 of the Bankruptcy Code, the Debtor was operating its business as a debtor-in-possession.

5. On September 12, 2019, the United States Trustee filed its *Motion to Convert Case to Chapter 7* (the “**Motion to Convert**”) and notice thereof. ECF No. 61.

6. At a hearing on September 26, 2019, the Court denied the Motion to Convert. However, per agreement between the Debtor, the United States Trustee, and ABL Alliance, LLLP (the “**Lender**”) as stated in the *Order on Motion to Convert Case to Chapter 7* the Debtor’s Case was converted to a case under Chapter 7 of the Bankruptcy Code on October 4, 2019.

7. Upon conversion, Lynn L. Tavenner was appointed interim trustee, and she continues to serve in that capacity.

### **Relief Requested**

8. The Trustee requires the immediate and continued assistance of Tavenner & Beran principally to provide legal assistance and advice concerning (a) the orderly liquidation of assets including but not limited to resolving/collecting accounts receivable and the investigation, analysis, and possible prosecution of avoidance actions, as well as other possible state law claims;

and (b) the resolution of claims asserted against said property and/or the Estate. While the engagement will be directed primarily at these matters, the scope of the engagement will include all such legal matters as the Trustee may assign to Tavenner & Beran from time to time.

9. The Trustee also intends to solicit proposals from additional individuals and/or entities to serve as her professionals in this Case, including but not limited to one or more law firms to serve as her special counsel (“**Special Counsel**”) for specified tasks. Upon receipt of the proposals, the Trustee will select and then seek this Court’s approval to employ Special Counsel and/or other professionals.

10. Tavenner & Beran will coordinate with Special Counsel to avoid unnecessary duplication of efforts between firms. In fact, the Trustee will not tolerate the unnecessary duplication of efforts among any of her professionals. Due to its experience and expertise, the Trustee proposes immediately to employ Tavenner & Beran. Moreover, the proximity of Tavenner & Beran to the Trustee will permit efficiency in delivering legal services and prompt communication with the Trustee, which should result in a greater recovery for the Estate.

11. The Trustee proposes to employ Tavenner & Beran under a general retainer at the firm’s customary hourly rates for comparable services. The firm’s current standard hourly rates for attorneys are between \$450.00 and \$250.00. The firm’s current standard hourly rate for paraprofessionals is \$110.00. The Trustee proposes to reimburse Tavenner & Beran for all reasonable out of pocket expenses incurred in representing the Trustee pursuant to §§ 330 and 503 of the Bankruptcy Code to the extent the funds are available in the Estate to reimburse such expenses.

12. Tavenner & Beran will record the time of its professionals at the firm's regular hourly rates for its partners and paralegals for its legal services. Tavenner & Beran's rates are reviewed, and when deemed appropriate, adjusted annually. Tavenner & Beran will utilize paralegals from time to time where the tasks required can be accomplished by a paralegal with a corresponding reduction in the applicable hourly rate.

13. The Trustee believes, to the best of her knowledge, that Tavenner & Beran does not have any connections with the Debtor, creditors, or any other party in interest or their respective attorneys and accountants that would render Tavenner & Beran not "disinterested" within the meaning of § 101(14) of the Bankruptcy Code. Filed contemporaneously herewith as Exhibit A is the Declaration of Paula S. Beran attesting to the supporting facts and this conclusion.

**WHEREFORE**, Lynn L. Tavenner, Trustee, hereby requests that the Court enter an order, substantially in the form attached hereto as Exhibit B approving the employment of Tavenner & Beran, as set forth herein, and to award any further relief the Court deems proper.

Respectfully submitted,

LYNN L. TAVENNER, CHAPTER 7 TRUSTEE

Dated: October 4, 2019  
Richmond, Virginia

By: /s/ Lynn L. Tavenner  
Lynn L. Tavenner, Trustee  
Tavenner & Beran, PLC  
20 North 8<sup>th</sup> Street  
Richmond, Virginia 23219  
Telephone: (804) 783-8300  
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*Chapter 7 Trustee*

**CERTIFICATE OF SERVICE**

Pursuant to the Local Rules of this Court, I certify that on this 4th day of October 2019, a true copy of the foregoing Application was sent electronically to:

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And all other parties receiving ECF notices in this Case.

/s/ Lynn L. Tavenner  
Lynn L. Tavenner, Trustee

## EXHIBIT A



UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF VIRGINIA  
Richmond Division

In re:

LeClairRyan, PLLC,

Debtor

Case No.

19-34574-KRH

Chapter

7

**DECLARATION OF PAULA S. BERAN**

Pursuant to Rule 2014(a) of the Federal Rules of Bankruptcy Procedure, Paula S. Beran, does hereby swear, under penalty of perjury:

1. I am a member in good standing of the Bar of the State of Virginia and admitted to practice before the United States Court of Appeals for the Fourth Circuit and the United States District Courts and Bankruptcy Courts for the Eastern and Western Districts of Virginia.

2. I am a partner/member of the law firm of Tavenner & Beran, PLC (“**Tavenner & Beran**”) and am duly authorized to make this Declaration on behalf of Tavenner & Beran. I make this Declaration in support of the Trustee’s Application to Retain and Employ Tavenner & Beran, PLC as Counsel for the Trustee (the “**Application**”). I personally know the facts set forth in this Declaration and, if called as a witness, I could and would testify thereto. Unless otherwise defined, all capitalized terms used herein have the meanings given to them in the Application.

3. The law firm of Tavenner & Beran has extensive experience in bankruptcy, insolvency, reorganization, and debtor/creditor law. The firm is well qualified to represent the Trustee in this bankruptcy case and is willing to accept employment on the basis set forth in the Application.

4. The law firm of Tavenner & Beran, its partners, and associates hold no interest adverse to the Debtor or the Estate, and Tavenner & Beran is a “disinterested person” as defined in § 101(14) of the Bankruptcy Code. The only connections with the Debtor, its identified creditors, any other party in interest, its respective attorneys and accountants, the United States Trustee, or any person employed in the office of the United States Trustee, of which Tavenner & Beran, its partners or associates, are aware are as follows:

- a) A former employee of the law firm of Tavenner & Beran, Ms. Shannon Pecoraro, is currently employed with the Richmond Office of the Office of the United States Trustee;
- b) Ms. Lynn L. Tavenner, the Trustee, in her individual capacity and Paula S. Beran, an attorney at Tavenner & Beran are personal friends and are the members of (i) Tavenner & Beran; (ii) a limited liability company that owns real property; and (iii) another limited liability company that continues in existence but has never been active;
- c) Prior to appointments to the bench, Tavenner & Beran represented the Honorable Keith L. Phillips and the Honorable Kevin R. Huennekens as Chapter 7 trustees in unrelated cases;
- d) Ms. Paula S. Beran, an attorney at Tavenner & Beran, was formerly employed by the Debtor from the Fall of 1995 to approximately January 31, 2002. In connection with said employment, Ms. Beran participated in the LeClairRyan PLLC 401(k) Profit Sharing Plan, which plan was terminated before the filing

of the Debtor's bankruptcy case. Furthermore, Ms. Beran remains friends with many former attorneys and/or other employees of the Debtor;

- e) Ms. Lynn L. Tavenner, Trustee, in her individual capacity, was formerly employed by the Debtor for a period beginning approximately mid-September 1999 to approximately January 31, 2002. In addition, Ms. Tavenner is friends with certain former attorneys and/or other employees of the Debtor;
- f) Mr. David N. Tabakin, an attorney at Tavenner & Beran, was formerly employed by UnitedLex Professional Services, LLC as a contract attorney for a period beginning in approximately October of 2013, to approximately March of 2014;
- g) Ms. Sally DiGiorgio, a part-time legal assistant at Tavenner & Beran, was formerly employed by the Debtor for a period of time, which employment ended approximately nine years ago;
- h) Ms. Debra Howard, a former employee of the Debtor (approximately 17 years ago) was formerly employed by Tavenner & Beran and now works as a judicial assistant for the Honorable Keith L. Phillips;
- i) In her capacity as Chapter 7 Trustee and/or liquidating trustee in unrelated cases, Lynn L. Tavenner, an attorney at Tavenner & Beran, has been represented by (i) Spotts Fain PC, who serves as counsel for a creditor in this Case; (ii) McGuireWoods, LLP, who serves as counsel to a secured creditor in this Case; (iii) Arent Fox, LLP, who serves as counsel to a creditor in this Case;

- (iv) Hunton Andrews Kurth, LLP, who serves as Debtor's counsel in this Case; and (v) Christian Barton, LLP, a creditor in this Case.
- j) In her capacity as Chapter 7 Trustee and/or liquidating trustee in unrelated cases, Lynn L. Tavenner, an attorney at Tavenner & Beran, has used as mediators (i) Karen Crowley, Esquire of Crowley Liberator P.C., who serves as counsel to a creditor in this Case and (ii) Tyler P. Brown, Esquire of Hunton Andrews Kurth LLP, who serves as counsel to the Debtor in this Case;
- k) Tavenner & Beran has worked with and/or has been opposed to in unrelated matters the following: Hunton Andrews Kurth LLP, McGuireWoods LLP, Crowley Liberatore P.C., Gebhardt & Smith LLP, Durette Arkema Gerson & Gill PC, ThompsonMcMullan, P.C., Holland & Knight LLP, Greenberg Traurig, LLP, Arent Fox LLP, Spotts Fain, PC, and Wolcott Rivers Gates, all of which have filed pleadings in this Case on behalf of creditors and/or the Debtor;
- l) Tavenner & Beran has served and/or is currently serving as debtor's counsel, creditors' committee counsel, and/or trustee's counsel in unrelated cases where one or more of the creditors in this Case is also a creditor in the unrelated cases;
- m) In her capacity as Chapter 7 Trustee and/or liquidating trustee, Lynn L. Tavenner, an attorney at Tavenner & Beran, is and/or was the trustee in unrelated cases where one or more of the creditors in this Case is/was also a creditor in the unrelated cases;

- n) In her capacity as a Chapter 7 Trustee, Lynn L. Tavenner, an attorney at Tavenner & Beran, has retained Protiviti, Inc., who is the Debtor's financial advisor, in unrelated cases; and
- o) For numerous months before the Petition Date, Tavenner & Beran was contacted about potential engagements that could have been adverse to the Debtor. In every instance, the potential client was specifically instructed not to provide any confidential information but instead explain the nuance of said engagement. Tavenner & Beran decided in each instance to refrain from taking any such engagement/representation. In connection with the same, no confidential information was ever exchanged.

5. The proposed employment of Tavenner & Beran is not prohibited by or improper under Bankruptcy Rule 5002.

/s/ Paula S. Beran

Paula S. Beran

## EXHIBIT B

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF VIRGINIA  
Richmond Division

In re:

LeClairRyan, PLLC,<sup>1</sup>

Debtor

Case No.

19-34574-KRH

Chapter

7

**ORDER AUTHORIZING THE RETENTION AND EMPLOYMENT  
OF TAVENNER & BERAN, PLC AS TRUSTEE'S COUNSEL**

This matter came before the Court upon the Trustee's Application to Retain and Employ Tavenner & Beran, PLC as Counsel for the Trustee (the "**Application**"). The Court (a) having reviewed (i) the Application and (ii) the Declaration of Paula S. Beran, a partner/member in the law firm of Tavenner & Beran, PLC ("**Tavenner & Beran**"), attached to the Application as Exhibit A (the "**Declaration**"); and the Court being fully advised in the premises and having determined that the legal and factual bases set forth in the Application and the Declaration establish just cause for the relief granted herein;

THE COURT HEREBY FINDS THAT:

- A. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334.
- B. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

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<sup>1</sup> The principal address of the Debtor as of the petition date was 4405 Cox Road, Glen Allen, Virginia 23060, and the last four digits of the Debtor's federal tax identification number are 2451.

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Lynn L. Tavenner, Trustee  
Tavenner & Beran, PLC  
20 North 8th Street, Second Floor  
Richmond, Virginia 23219  
Telephone: (804) 783-8300  
Telecopy: (804) 783-0178

Lynn L. Tavenner, Chapter 7 Trustee

C. Notice of the Application (and service of the proposed order) was sufficient under the circumstances.

D. The Application and the Declaration are in full compliance with all applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules of this Court.

E. Tavenner & Beran does not represent any entity adverse to the Debtor or to the Estate. Furthermore, Tavenner & Beran does not hold any interest adverse to the Debtor or to the Estate, and Tavenner & Beran is a “disinterested person,” as defined in § 101(14) of the Bankruptcy Code and as required by § 327(a) of the Bankruptcy Code.

F. The retention and employment of Tavenner & Beran in accordance with the Application and this Order is in the best interest of the bankruptcy estate.

IT IS HEREBY ORDERED THAT:

1. The Application is hereby APPROVED.
2. Capitalized terms not otherwise defined herein shall have the meanings given to them in the Application.
3. The Trustee is authorized to retain and employ Tavenner & Beran as counsel, pursuant to § 327 of the Bankruptcy Code, retroactive to October 4, 2019.
4. Tavenner & Beran shall be compensated for such services and reimbursed for any related expenses as provided in the Application, and in accordance with applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and any additional procedures that may be established by this Court.

Entered:

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UNITED STATES BANKRUPTCY JUDGE



I ask for this:

/s/

Lynn L. Tavenner, Trustee  
Tavenner & Beran, PLC  
20 North Eighth Street, Second Floor  
Richmond, Virginia 23219  
Telephone: (804) 783-8300  
Telecopy: (804) 783-0178

*Chapter 7 Trustee*

Seen and not objected to:

/s/

Robert B. Van Arsdale, Esquire  
Office of the United States Trustee  
701 East Broad Street, Suite 4304  
Richmond, Virginia 23219  
(804) 771-8004

*Assistant United States Trustee*

### **CERTIFICATION**

I hereby certify under Local Rule 9022-1 that the foregoing proposed Order was served on all requisite parties and has been endorsed by all necessary parties.

/s/

Lynn L. Tavenner, Trustee

Service List:

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